

REMARKS

Claims 1 - 16 are in this application and are presented for reconsideration. By this Amendment, Applicant has made a minor change to claim 17 to include the term "and" before the last recited feature. It is requested that this Amendment be entered as no new issues are raised.

Claims 1 - 16 stand finally rejected as anticipated by Barton et al. (U.S. 3,451,288). Although the Barton rejection was made for the first time in the last Office Action, the rejection was made final presumably based on Applicant's changing of claim 1 to indicate that the two part design had two parts, clarifying that each of the parts is not made in one piece with the bearing block and that the two parts are separate parts. It is Applicant's position that this change did not necessitate this rejection being final and therefore Applicant requests reconsideration on this point. Specifically, as the Barton reference is applied for the first time and in view of the simple clarifying amendments of the previous response, it is believed that the Amendment should not be final.

The Barton reference discloses a control pedal support comprising a brake pedal 10, a sheet metal support structure 12 and a pivot structure 14 for pivotally connecting the pedal 10 to the support structure 12. A tubular member 18 is clamped to the pedal 10. Specifically, the metal tubular member is clampingly connected to the pedal 10 with two bushings 20 and 22 fit within the ends of the central opening 24 of the tubular member 18. As such the tubular member 18 and bushings 20 and 22 form part of an overall pedal structure. Concentric inner and outer pivot pins 26 and 28 are positioned within the bushing 20 and 22. The inner and

outer pivot pins 28 and 26 are connected to side flanges 40 and 42 of the support structure 12 by means of retainers 48 and 50 and support elements 44 and 46.

The Barton reference clearly fails to teach and fails to disclose a bearing block structure having sections which open or expand in the case of an accident.

According to Applicant's invention, Applicant provides sections 7 and 8 which open or expand (deform) in the case of an accident. Each of Applicant's claims highlight this important structural feature. Each of Applicant's independent claims includes this structure defined by its function (35 USC § 112, paragraph 6) such as in claim 1:

*"...bearing block having at least one section opening or
expanding in case of an accident as a consequence of force
acting on the assembly unit..."*

This is a structural limitation of the claim.

The Barton reference does not disclose this structure. The support structure 12 according to Barton has both parallel side flanges 40, 42 fixedly connected with one another by the back of the U profile of the support structure 12. Thus, according to Barton an assembly is provided in which the components may be snapped together for a permanent engagement (see column 2 lines 45 - 50 of Barton). Clearly Barton does not disclose the structure claimed by the language above and also fails to disclose another important feature of the invention.

The claims also require that the bolt disengage from the mounts as a consequence of the acting force. This is a further structural requirement of the bolt, namely that upon deformation there is disengagement. It is Applicant's position that certainly the U-shape bracket does not

meet the requirements with regard to sections opening or expanding in the case of accident. The person of ordinary skill in the art would appreciate that this technical consideration is not considered in the device of Barton et al. and indeed the structure cannot provide this function. Further, it should be noted that if the two ends of the U structure are pried apart (this could not happen in a mounted state and the structure is not designed for this to occur) the bolt is not structured to disengage from the mounts as a consequence of the acting force (as a consequence of the prying apart of the two ends). The Barton et al. structure with pivot pins is clearly designed to completely rule out the possibility of the structural requirement of the claim. A sliding of inner pivot pin 28 with respect to outer pin 24 (with their respective ends held to the U-shape bracket) will not disengage, even if the U-shape bracket ends are pried apart. Accordingly, the Barton reference fails to present teachings with regard to two critical structural features required by the claims. Each of independent claims 1, 9 and 17 requires the structural features cooperating as claimed and these features are clearly not present in Barton.

The rejection clearly is based on the bearing block having a section expanding in the case of an accident so that the bolt disengages from the mounts. As indicated above, the language of the claims requires two structural features, one associated with the bearing block (structure to expand in the case of an accident) and the other relating to the bolt, namely being shaped to disengage or fall out upon expansion. Without a teaching or suggestion of these two structural features, Barton cannot be considered anticipatory with regard to independent claims 1, 9 and 17.

According to the rejection as stated, the two part bolt according to Barton consist of

a solid pivot pin 28 and a pivot pin retainer 48 (see page 2 of the Office Action). As such, it can be concluded that with respect to the present independent claim 9 the solid pivot pin 28 must be the first part and the pivot pin retainer 48 must be the second part of the two bolt arrangement. Specifically, claim 9 requires that the first pivot pin (presumably solid pin 28) has an engaging contour (presumably engaging contour 32) while the second part (presumably pivot pin retainer 48) has a tubular portion with an engaging contour (presumably contour 54) on an inside of the pivot pin retainer 48.

Such a reading of the claim (as noted above this is required) leads to a situation that present claim 12 clearly cannot be anticipated. Specifically present claim 12 requires that the first bolt part has

*"an end slotted at least once with hook-shaped areas
and a side facing the second bolt part with tapering sections".*

However, the solid part 28 does not comprise these features (solid pivot pin 28 comprises a solid shank 30 with an enlarged flat head 32). With respect to claim 12 the rejection refers to Fig. 2 of Barton. However, Fig. 2 shows pivot pin retainer 48 (second bolt part) and not the first bolt part. Such similar inconsistencies can be appreciated from considering claims 4 and 20. As noted above, the independent claims are not anticipated by Barton. Further, it can clearly be appreciated that each of claims 4, 12 and 20 is not anticipated by Barton.

Each of claims 8, 16 and 17 recite features including

"The lever arm has a stop on an inner contour, the stop

forming a contact surface with associated contact surfaces of the bolt".

In the rejection the tubular member 18 is referenced with regard to a recess structure with another portion of the same lever arm arrangement being referenced with regard to the stop. However, the tubular member 18 is not part of the bolt (the bolt is mentioned as 28, 48 and clearly 18 and other parts of the pedal assembly do not provide any bolt function). Further, the tubular member 18 cannot be considered a part of the bolt which is arranged within the tubular member 18. Specifically, the Barton reference discloses "the concentric inner and outer pivot pins 26 and 28" are positioned within bushings 20 and 22 which fit within the ends of central opening 24 of the tube at the member 18 (see column 1 lines 55 - 60 of Barton). Even properly considering tubular member 18 as an integral part of the pedal 10 (this is what it appears to be) Barton fails to disclose the inner contour, since the central opening 24 of the tubular member 18 is not provided with a stop forming a contact surface with associated contact surfaces of the bolt (28). Clearly Barton does not disclose a recess contact surface of the bolt as required by claim 17 and claims 8 and 16.

It is Applicant's position that a fair reading of Barton et al. leads to the conclusion that the reference fails to suggest several structural features required by the claim. Particularly with regard to claim 17, the Barton reference fails to fairly suggest:

a) a bolt with a recess contact surface and a lever arm with an inner contour with a stop forming a stop contact surface with the recess contact surface.


b) with regard to all of the independent claims Barton lacks a bearing block structure having at least one section opening or expanding in the case of an accident as a consequence of force acting on the assembly unit; and

c) the structure of the bolt for disengaging from the mounts as a consequence of the acting force (expansion).

The Examiner is requested to consider the above and if possible discuss this application with Applicant's representative at a convenient time prior to Applicant's next due date of February 18, 2004.

Respectfully submitted
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